

STATE OF GEORGIA
COUNTY OF FULTON

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA TO AMEND CHAPTER 38 (OFFENSES AND MISCELLANEOUS PROVISIONS) OF THE CODE OF THE CITY OF SANDY SPRINGS, GEORGIA; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

BE IT ORDAINED by the Mayor and City Council of the City of Sandy Springs, Georgia that the City's Code of Ordinances is amended as follows:

SECTION I: Article IV of Chapter 38 relating to Offenses and Miscellaneous Provisions is hereby amended to modify the obscenity ordinance to remove reference to sexual devices by deleting subsection (c) of Section 38-120 of Article IV of Chapter 38 in its entirety.

SECTION II: It is the intention of the City Council and it is hereby ordained by the authority of the City Council that the provisions of this Ordinance shall become and be made a part of The Code of the City of Sandy Springs, Georgia, and the codifier is authorized to make the specified deletion, which is reflected in Exhibit A to this ordinance.

SECTION III: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION IV: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

SECTION V: This Ordinance shall become effective immediately upon adoption.

APPROVED AND ADOPTED this the _____ day of March, 2017.

Approved:

Russell K. Paul, Mayor

Attest:

Michael D. Casey, City Clerk

(Seal)

EXHIBIT A

Sec. 38-120. – Obscenity and related offenses.

- (a) A person commits the offense of distributing obscene material when the following occurs:
 - (1) He sells, rents, or leases to any person any obscene material of any description, knowing the obscene nature thereof, or offers to do so, or possesses such material with the intent to do so, provided that the word “knowing,” as used in this section, shall be deemed to be either actual or constructive knowledge of the obscene contents of the subject matter.
 - (2) A person has constructive knowledge of the obscene contents if he has knowledge of facts which would put a reasonable and prudent person on notice as to the suspect nature of the material.
 - (3) The character and reputation of the individual charged with an offense under this law, and the character and reputation of the business establishment involved may be placed in evidence by the defendant on the question of intent to violate this law. Undeveloped photographs, molds, printing plates, and the like shall be deemed obscene notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.
- (b) Material is obscene if:
 - (1) To the average person applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion;
 - (2) The material, taken as a whole, lacks serious literary, artistic, political, or scientific value; and
 - (3) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined as follows:
 - a. Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;
 - b. Acts of masturbation;
 - c. Acts involving excretory functions or lewd exhibition of the genitals;
 - d. Acts of bestiality or the fondling of sex organs of animals; or
 - e. Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.
- (c) [repealed]
- (d) It is an affirmative defense under this section that selling, renting, or leasing the material was done for a bona fide medical, scientific, educational, legislative, judicial, or law enforcement purpose.
- (e) A person who commits the offense of distributing obscene material shall be guilty of a violation of this Code.